

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

**TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE PHILIP G. REINHARD**

## **APPEARANCES:**

## **For the Government:**

**HON. PATRICK J. FITZGERALD**  
**United States Attorney**  
**(308 West State Street,**  
**Rockford, IL 61101) by**  
**MR. BRENDAN A. MAHER**  
**Assistant U.S. Attorney**

**For the Defendant:**

**BYRD & TAYLOR  
(308 West State Street,  
Suite 450,  
Rockford, IL 61101) by  
MR. MARK A. BYRD**

## Court Reporter:

**Mary T. Lindblom  
211 South Court Street  
Rockford, Illinois 61101  
(815) 987-4486**

1                   **THE CLERK: 01 CR 50004-2 and 06 CR 50067, U.S.A. v.**  
2                   **Jonathan Gear.**

3                   **MR. BYRD: Good morning, your Honor. For the record,**  
4                   **Mark Byrd on behalf of the defendant.**

5                   **THE COURT: Good morning. Is there somebody from the**  
6                   **U.S. Attorney's Office here?**

7                   **MR. BYRD: Your Honor, my understanding is it was**  
8                   **Mr. Karner's case. I haven't seen him this morning. If you**  
9                   **want to pass it.**

10                  **THE COURT: Well, I appreciate the fact that you're**  
11                  **here. As you know, I'm probably just going to set a date.**  
12                  **Would you get ahold of him?**

13                  **MR. BYRD: Mr. Karner?**

14                  **THE COURT: Yes.**

15                  **MR. BYRD: I'd be happy to, Judge.**

16                  **THE COURT: The defendant's still in prison.**

17                  **MR. BYRD: Yes, he hasn't been transferred yet. I**  
18                  **spoke to him last week. I know that he'll want to file some**  
19                  **additional submissions with the court, let you know how he's**  
20                  **been doing since he's been --**

21                  **THE COURT: Well, that's what I want to cover. Would**  
22                  **you give -- maybe you'll see Mr. Maher out there, and he'll get**  
23                  **ahold of his colleague. I want to handle this this morning.**

24                  **MR. BYRD: That's fine. Do you want to pass it?**

25                  **THE COURT: I'll pass it for a minute.**

1                   **MR. BYRD:** I'll see if I can locate him

2                   **THE COURT:** I'll interrupt the rest of my schedule for  
3 that.

4                   **MR. BYRD:** All right. Thank you, Judge.

5                   (Other matters were heard on the call, after which the  
6 following further proceedings were had: )

7                   **THE CLERK:** 01 CR 50004-2 and 06 CR 50067, U.S.A. v.  
8 Jonathan Gear.

9                   **MR. MAHER:** Good morning, your Honor. Brendan Maher  
10 standing in for Mark Karner on behalf of the United States.

11                  **MR. BYRD:** Good morning, your Honor. Mark Byrd on  
12 behalf of the defendant.

13                  **THE COURT:** The purpose here is to have him brought  
14 back for a resentencing date, and have you at all talked about  
15 that or thought about it, I presume?

16                  **MR. BYRD:** Yes, Judge. I've spoken with Mr. Gear. I  
17 assume the court's going to order an addendum to the presentence  
18 report, and then we'll have an opportunity to submit any  
19 additional materials in support of Mr. Gear.

20                  **THE COURT:** We'll update it, and I think -- is the  
21 probation officer here?

22                  **MR. BYRD:** I believe so.

23                  **THE COURT:** I would suppose you would update the  
24 guideline calculations. I don't know if there's anything else  
25 that you believe ought to be updated.

1                   **MR. BYRD:** Judge, other than the change in the  
2 guidelines as a consequence of the Begay case and some  
3 additional materials to show the court how Mr. Gear has been  
4 doing since he's been incarcerated, I can't think of anything  
5 else.

6                   **THE COURT:** You can request a -- they have a prison  
7 special report. I forgot the name of it.

8                   **MS. POWELL:** Okay.

9                   **THE COURT:** But we can get that. If you want to submit  
10 anything else, you can do it. How long do you think you need?

11                  **MS. POWELL:** In order to get those prison documents, I  
12 think I would need at least a few weeks, your Honor. So, I  
13 would say 30 to 60 days.

14                  **THE COURT:** I'll give you 30 days. Then that would  
15 lead us into where? About the 10th of October. I'm going to be  
16 gone quite a bit in October. The problem is I'm going to be  
17 here the 8th and the 9th, but that's within this 30-day  
18 framework. Then I'm leaving for quite some time, and about the  
19 only date that I've got is the 26th of October. And are you  
20 available then?

21                  **MR. BYRD:** I am your Honor. I'm scheduled for a jury  
22 trial, but I don't anticipate that it's going to start on  
23 Monday.

24                  **THE COURT:** All right. I see that I may be back the  
25 23rd of October, which is a Friday.

1                   **MR. BYRD:** Either date's fine with me, Judge.

2                   **THE COURT:** Well, let's do it the 26th. That will give  
3 me a little time to look at it. We'll have a hearing on a  
4 resentencing on the 26th. Therefore, if her report is due  
5 30 days from now, I'll give you seven days to file whatever you  
6 want to file, a sentencing memorandum and the government gets  
7 three days after that, so that we'll be all ready to go on the  
8 26th.

9                   **MR. MAHER:** What was the time for that?

10                  **THE COURT:** 10:00 o'clock.

11                  **MR. BYRD:** So, the presentence addendum will be due the  
12 10th, anything I'm submitting the 17th, and the government's  
13 response the 20th.

14                  **THE COURT:** Yes.

15                  **MR. BYRD:** Okay. Thank you.

16                  **MR. MAHER:** Thank you, your Honor.

17                  **THE COURT:** An order should be entered that -- part of  
18 it that the U.S. Marshal is to have him brought back, let's say,  
19 by the 20th. That gives you enough time to talk to him

20                  **MR. BYRD:** September 20th?

21                  **THE COURT:** No. October 20th.

22                  **MR. BYRD:** The only concern, Judge, is that I  
23 understand he is bringing the materials that I would be  
24 submitting with him when he comes back.

25                  **THE COURT:** Well, have him forward them

1                   **MR. BYRD:** All right.

2                   **THE COURT:** You can talk to the -- the U.S. Attorney  
3 talk to the Marshal, but I want him back at least by the 20th of  
4 October. If they want to bring him back sooner, that's all  
5 right, too.

6                   **MR. MAHER:** Okay. I'll discuss that with Mark.

7                   **THE COURT:** Okay. Anything else?

8                   **MR. BYRD:** No, your Honor. Thank you.

9                   **MR. MAHER:** No, your Honor. Thank you.

10                  (**W**hich were all the proceedings had in the above-entitled  
11 cause on the day and date aforesaid.)

12                  I certify that the foregoing is a correct transcript from  
13 the record of proceedings in the above-entitled matter.

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16                  **Mary T. Lindblom**  
17                  Official Court Reporter

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